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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,677	01/15/2004	Michael J. O'Phelan	279.234US3	6077

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EXAMINER

PASCHALL, MARK H

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,677

Applicant(s)

O'PHELAN ET AL.

Examiner

Mark H. Paschall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-62, 100 and 101 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-49, 52-55, 57, 59-62, 100 and 101 is/are rejected.
- 7) ☒ Claim(s) 50, 51, 56 and 58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02-21-2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 45-49, 52-55, 57, 59-62, 100, 101 are rejected under 35 USC 103(a)) as being unpatentable over Yamamoto in view of Farahmandi et al. Yamamoto teaches the claimed subject matter as set forth in the previous office action except for showing use of flat capacitor stacked plates. However, as set forth in Farahmandi et al such shape is conventional and in view of this teaching it would have been obvious to modify the Yamamoto system with the same, such choice dependent on the end use of the device. It would have been an obvious modification to use flat capacitor plates in the Yamamoto system, as taught in the Farahmandi et al system, since Farahmandi et al in

column 25 lines 17-50 teaches that a flat capacitor configuration has enhances capacitance values of excess of 2200 farads at nominal working voltages and resistances, to attain the benefit of enhanced capacitance in the Yamamoto et al system.

Response to Arguments

Applicant's arguments filed 02-21-2006 have been fully considered but they are not persuasive. Applicants remarks advance that the Examiner is reading too much into the Farahmandi et al reference and has no motivation for modifying the Yamamoto eference for using flat capacitor plates. The base reference to Yamamoto is relied on for teaching that multiple compartment capacitors can be manufactured using different electrolytes per compartment, but Yamamoto et al differs from the claimed subject matter in that the capacitor is of the spiral wound type whereas the instant claims designate flat stacked construction. It is submitted that one of ordinary skill in capacitor manufacturing would pick and choose the appropriate shape and structure according to the end use of the device and other undisclosed parameters such as costs, etc. The reference to Farahmandi et al is relied on for evidencing that both types of capacitors are commonly and equivalently used, depending on needs . For instance in column 20 , lines 10-40, Farahmandi et al set forth that , "Depending on the application for which the capacitor is to be used, a rectangular shaped case may prove more beneficial than a cylindrical shaped case". The instant claims are absent any such criticality and being that both shapes are equivalently disclosed, the artisan would have found proper;

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motivation to adapt the Yamamoto system to use flat stacks in lieu of cylindrical stacks, such adaptation being well within the level of skill in the art. Note that as per the dependent claims, the stacks are separately compartmented with separate electrolytes, as claimed. Use of insulating coatings on the case is considered a choice of routine skill in the art, as per dependent claims.

Allowable Subject Matter

Claims 50, 51, 56 and 58 are dependent on rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claimed capacitance between the anodes and cathodes, as claimed, is not set forth in the prior art of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark H. Paschall whose telephone number is 703 308-1642. The examiner can normally be reached on 7am - 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mark H Paschall
Primary Examiner
Art Unit 3742

Mp